

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

**CG4, LLC, d/b/a
CHEF GEOFF's-TYSONS CORNER, *et al.*,**

Plaintiffs,

v.

TRAVIS HILL, *et al.*,

Defendants.

Civil Action No. 1:18-cv-360 (AJT/IDD)

**DEFENDANTS' MEMORANDUM IN SUPPORT OF MOTION FOR LEAVE TO LATE
FILE DEFENDANTS' MOTION FOR RELIEF DUE TO PLAINTIFFS' FAILURE TO
COMPLY WITH COURT ORDER AND DISCOVERY OBLIGATIONS**

Defendants respectfully move this Court to permit them to late file Defendants' Motion for Relief Due to Plaintiffs' Failure to Comply with Court Order and Discovery Obligations. The reasons for this request are as follows:

1. Since first serving requests for production of documents on August 27, 2018, Defendants have attempted without success to obtain responsive documents to RFP No. 3.
2. On November 9, 2018, this Court ordered Plaintiffs to respond to RFP No. 3 by producing native data showing sales and inventory information for several of Plaintiffs' restaurants. (Dkt. No. 74.)
3. Plaintiffs still have not complied with the Order, and demonstrably failed to comply with their discovery obligations under Fed. R. Civ. P. 26(g).
4. Because Plaintiffs still have not produced data that is highly relevant to their defense theory, and the parties are now in the midst of summary judgment briefing, Defendants

face serious prejudice. Thus, Defendants seek relief from the Court under Rules 26 and 37 of the Federal Rules of Civil Procedure.

5. Due to the recent holiday, Counsel for Defendants have faced the challenges of scheduling and travel complications. For this reason, Counsels' time has been compressed. Counsel have diligently prepared an extensive and detailed motion regarding the ongoing discovery disputes in this case, which explains how the disputes affect summary judgment and prejudice Defendants. Despite Counsels' best efforts and working over the holidays, Defendants will not be able to file their discovery motion before 5:00p.m.

6. Granting this motion for leave will not prejudice Plaintiffs. Plaintiffs are familiar with the facts and arguments presented in the Memorandum in Support because they have been involved in the ongoing discovery disputes, have replied to motions regarding discovery requests, attended a hearing on Defendants' motion to compel discovery, agreed to Defendants' decision to serve third party subpoenas, and are aware of the issues related to the data at issue. Despite the lack of prejudice to Plaintiffs, Defendants apologize to the Court and counsel for any inconvenience this late filing may have caused.

7. WHEREFORE, Defendants ask that the Court grant this Motion for Leave to Late File the Motion for Relief Due to Plaintiffs' Failure to Comply with Court Order and Discovery Obligations and allow Defendants' discovery motion to be heard.

Respectfully submitted,

/s/ Madeline M. Gibson

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CERTIFICATE OF SERVICE

I certify that on this 28th day of December, 2018, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, and that a Notice of Electronic Filing (NEF) was sent to all counsel of record.

/s/ Madeline M. Gibson

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